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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re E.J., a Person Coming Under the  
Juvenile Court Law.

B209123  
(Los Angeles County  
Super. Ct. No. CK71915)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

E.J.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

Valerie Skeba, Juvenile Court Referee, Judge. Affirmed.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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E.J. appeals from an order denying him reunification services in the dependency proceedings concerning his daughter E. We appointed counsel to represent him. Counsel informed us that she was unable to file an opening brief on the merits, and also informed us that she had provided appellant with a copy of the appellate record. Appellant himself has filed a letter brief, arguing that the evidence was insufficient to support the finding. We affirm the juvenile court.

The facts may be briefly stated:

Dependency proceedings began in March 2008, when E. was 10 years old, after her 12 year old sister told a school official that appellant had been sexually molesting her for the past three years. E.'s sister said the same to DCFS and to the police, and so testified at the Welfare and Institutions Code section 300 hearing. (She, too, was the subject of dependency proceedings, but is not the subject of this appeal.) DCFS reported that appellant was a registered sex offender with a previous conviction for lewd and lascivious conduct with a person under the age of 14. He had served prison time for that offense, and E.'s sister testified that the abuse began on his return home after his release.

E. herself told DCFS, and testified at the hearing, that she had not been molested. Other witnesses called by appellant testified negatively about E.'s sister's reputation for veracity, and controverted some of E.'s sister's testimony about the time she spent with appellant, whether E. slept soundly and could have failed to hear appellant and her sister in the room, and similar matters.

The court found that E.'s sister's testimony was credible, that E.'s testimony was not credible, and that E. wanted to protect her father. The court found that the other witnesses called by appellant were either not credible or that their testimony concerned peripheral matters did not truly impeach E.'s sister's testimony.

As to E., the Welfare and Institutions Code section 300 petition was sustained under subdivision (d) on factual allegations concerning the abuse of E.'s sister. Appellant was at that time incarcerated, and based on the length of his incarceration, no reunification services were ordered, though the court noted that if appellant was released, he could file a section 388 petition. E. was placed with her mother.

Appellant argues that E.'s sister's unsubstantiated testimony is not substantial evidence for the trial court ruling denying him reunification services. He contends that E. was not at risk, citing her testimony that she was never inappropriately touched and that she did not fear him.

First, our review on appeal is for substantial evidence. We may not and do not reweigh the evidence. (*Cheryl P. v. Superior Court* (2006) 139 Cal.App.4th 87, 96.) The decision on credibility was for the trial court. Moreover, appellant's argument is that the evidence was insufficient for the denial of reunification services under Welfare and Institutions Code section 361.5, subdivision (b)(6), which concerns severe sexual abuse of a sibling. The court did not deny reunification services under that statute, as to E. (although the court did make that order as to E.'s sister) but instead denied reunification services based on the length of appellant's incarceration. (*In re Rebekah R.* (1994) 27 Cal.App.4th 1638, see § 361.5, subd. (e).)

#### Disposition

The juvenile court order is affirmed.

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ARMSTRONG, J.

We concur:

TURNER, P. J.

KRIEGLER, J.